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**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA**

ANA REHMET, on behalf of herself  
and all others similarly situated,

Plaintiff,

v.

GATHERAPP, Inc.,

Defendant.

Case No.

**CLASS ACTION COMPLAINT  
JURY TRIAL DEMANDED**

Plaintiff Ana Rehmet (“Plaintiff”), through her undersigned attorneys, on behalf of himself and all persons similarly situated, complain against GatherApp, Inc. (“GATHERAPP” or “Defendant”), as follows:

**INTRODUCTION**

1. Plaintiff bring this class action complaint for damages, injunctive relief, and any other available legal or equitable remedies, resulting from the illegal actions of GATHERAPP in sending text messages to Plaintiff on her cellular telephone, in violation of the Telephone Consumer Protection Act, 47 U.S.C. § 227 *et seq.* (“TCPA”).

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1           7.     Venue is proper in this District under 28 U.S.C. § 1391(b) because  
2 GATHERAPP is a resident of this District and significant events giving rise to this  
3 case took place in this District.

4                                   **PARTIES**

5           8.     Plaintiff Ana Rehmet is a citizen residing in Travis County, Texas.

6           9.     Defendant GATHERAPP is ostensibly a mobile application service  
7 which connects friends with one another in the application. GATHERAPP is a  
8 Delaware corporation doing business in the County of San Francisco, California.  
9 GATHERAPP's principal place of business and corporate headquarters are in San  
10 Francisco, California.

11                                   **FACTUAL INDIVIDUAL ALLEGATIONS**

12  
13          10.    On May 7, 2017, GATHERAPP sent a text message to Plaintiff's mobile  
14 phone from (410) 927-5789.

15          11.    The text message stated:

16                    You have been invited to join the Gather app. 3 of your friends  
17                    want to hang. :) Check it out! – gthr.me/dl

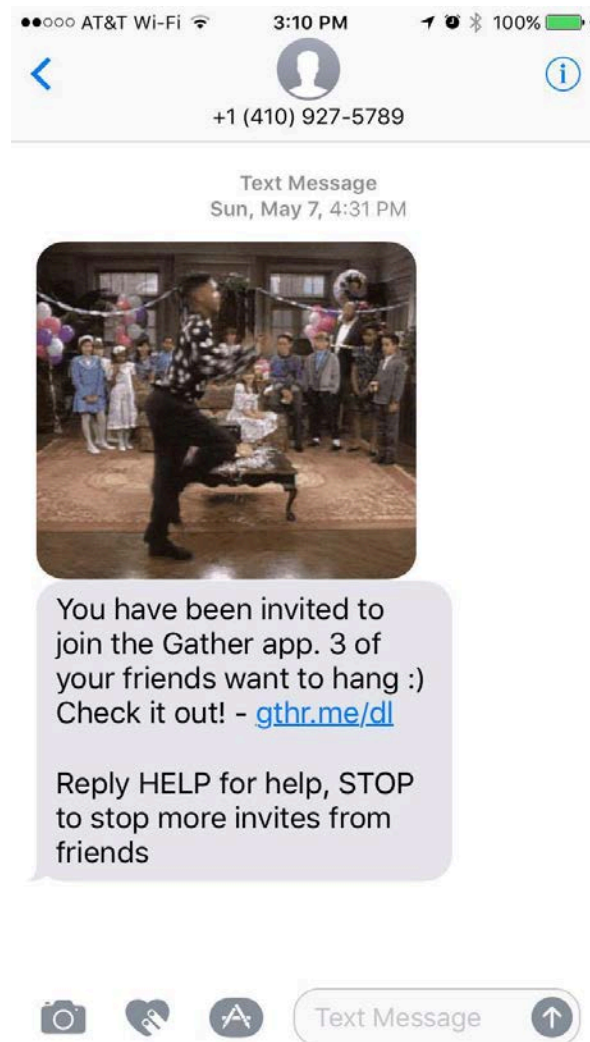
18                    Reply HELP for help, STOP to stop more invites from friends  
19  
20  
21  
22  
23

24                    ///

25                    ///

26                    ///  
27  
28

12. A true and correct copy of that text message is attached as **Exhibit A** and here:



13. Clicking on [gthr.me/dl](http://gthr.me/dl) redirects the user to [www.gatherwith.us](http://www.gatherwith.us).

14. [www.gatherwith.us](http://www.gatherwith.us) is a landing page for GATHERAPP's website advertising its mobile application called Gather.

15. [www.gatherwith.us](http://www.gatherwith.us) identifies GATHERAPP as the owner of that website and the mobile application.

16. Plaintiff never gave GATHERAPP permission to send her text messages. Plaintiff never interacted with GATHERAPP, its websites, or its mobile application

1 in any way, and never gave GATHERAPP permission to contact her through any  
2 form of communication.

3 17. Plaintiff has no contact with the phone number of (410) 927-5789, in her  
4 mobile phone or otherwise. Plaintiff knows no one with the phone number of (410)  
5 927-5789. Plaintiff never gave GATHERAPP or anyone else to send her text  
6 messages or other correspondence from the (410) 927-5789 number.

7 18. Plaintiff is informed and believes GATHERAPP obtained Plaintiffs'  
8 mobile phone number by taking, without consent, contacts from mobile phones  
9 owned by third parties, and sending text messages to those contacts, including  
10 Plaintiff and others.

11 19. Plaintiff is informed and believes those third parties did not willingly  
12 give Plaintiffs' mobile phone number to GATHERAPP so that GATHERAPP could  
13 contact Plaintiff. Even if they did, Plaintiff never gave *GATHERAPP* permission to  
14 send her text messages or contact her in any way, which they did anyways.

15 20. A text message is a "call" within the meaning of the TCPA. *Meyer v.*  
16 *Portfolio Recovery Assocs., LLC*, 707 F.3d 1036, 1043 (9th Cir. 2012).

17 21. Plaintiff is informed and believes GATHERAPP sent these text  
18 messages through an "automatic telephone dialing system" (the "ATDS"), as defined  
19 by 47 U.S.C. § 227(a)(1) as prohibited by 47 U.S.C. § 227(b)(1)(A).

20 22. These text messages constituted calls that were not for emergency  
21 purposes as defined by 47 U.S.C. § 227(b)(1)(A)(i).

22 23. Plaintiff is informed and believes the ATDS can store or produce  
23 numbers to be called using a random or sequential number generator.

24 24. Plaintiff is informed and believes the ATDS sends text messages stored  
25 as a list or in a database without human intervention.

1        25. Plaintiff is informed and believes the text messages sent to her are those  
2 for which she incurs a charge pursuant to 47 U.S.C. § 227(b)(1).

3        26. These text messages violated 47 U.S.C. § 227(b)(1).

4        27. Plaintiff suffered violation of a legally-protected privacy interest,  
5 specifically addressed and protected by the TCPA.

6        28. Plaintiff was personally affected by GATHERAPP's conduct because  
7 she was frustrated and distressed that GATHERAPP interfered with her life by using  
8 an ATDS. When she received the text message at issue, Plaintiff was attending a  
9 memorial service for fallen U.S. Navy Seal Charles Keating, an inopportune time to  
10 have her life interrupted by egregious spam text messaging.

11        29. The text message caused nuisance, frustration, annoyance, and lost time  
12 to Plaintiff because it took up space on her phone, wasted a text message slot in her  
13 monthly allotment, depleted her mobile phone battery life, and caused her to incur  
14 electricity to recharge her phone. The TCPA was designed to prevent these kinds of  
15 harms to consumers. *See, e.g., Mey v. Got Warranty, Inc.*, 193 F.Supp.3d 641, 644-45  
16 (N.D.W. Va. 2016); *see also id.* at 645 (“Of more import, such calls also cause  
17 intangible injuries, regardless of whether the consumer has a prepaid cell phone or a  
18 plan with a limited number of minutes. The main types of intangible harm that  
19 unlawful calls cause are (1) invasion of privacy, (2) intrusion upon and occupation of  
20 the capacity of the consumer's cell phone, and (3) wasting the consumer's time or  
21 causing the risk of personal injury due to interruption and distraction”).

22        30. Plaintiff is informed and believes that the text message was made by  
23 GATHERAPP or its agents, with GATHERAPP's permission, knowledge, and  
24 control, for GATHERAPP's benefit.

25 ///

26 ///

1        31. GATHERAPP is therefore liable to Plaintiff through the doctrine of  
2 *Respondeat Superior* for the intentional and negligent acts, errors, and omissions  
3 done in violation of federal and state law, including the TCPA.

4        32. Through their contact, GATHERAPP violated 47 U.S.C. §  
5 227(b)(1)(A)(iii).

6                                    **FACTUAL CLASS ALLEGATIONS**

7        33. Plaintiff brings this action on behalf of himself and a class of all others  
8 similarly situated, defined as follows:

9            All persons within the United States who received any text message  
10           from GATHERAPP or their agent(s) and/or employees, not sent for  
11           emergency purposes, without prior express consent, to the person's  
12           mobile phone made through the use of any automatic telephone  
                 dialing system without the four years prior to filing this complaint.

13        34. GATHERAPP and its employees or agents are excluded from the  
14 Classes.

15        35. Members of the Class are so numerous that joinder is impracticable.  
16 While the exact number of class members is unknown to Plaintiff, it is believed that  
17 the Class is comprised of thousands of members geographically disbursed throughout  
18 the United States. The Class is readily identifiable from information and records in  
19 the possession of GATHERAPP and third parties.

20        36. Common questions of law and fact exist as to all members of the  
21 Classes. These questions predominate over questions that may affect only individual  
22 class members because GATHERAPP has acted on grounds generally applicable to  
23 the Classes. Such common and legal factual questions include:

- 24            a. Whether GATHERAPP's conduct violates the TCPA;  
25            b. Whether GATHERAPP's text messages were sent for an emergency  
26 purpose;

1 c. Whether GATHERAPP obtained valid express consent from the  
2 automated text message recipients;

3 d. Whether GATHERAPP adhered to requests by Class members to stop  
4 sending text messages;

5 e. Whether GATHERAPP keeps records of text message recipients who  
6 revoked consent to receive text messages;

7 f. Whether Plaintiff and members of the Class are entitled to damages,  
8 costs, or attorney's fees from GATHERAPP;

9 g. Whether GATHERAPP's conduct caused Plaintiff and members of the  
10 Class inconvenience or annoyance;

11 h. Whether Plaintiff and members of the Class are entitled to compensatory  
12 damages;

13 i. Whether Plaintiff and members of the Class are entitled to treble damages  
14 based on the willfulness of GATHERAPP's conduct;

15 j. Whether Plaintiff and members of the Class are entitled to a permanent  
16 injunction enjoining GATHERAPP from continuing to engage in its unlawful  
17 conduct;

18 37. Plaintiff's claims are typical of the members of the Class, as all members  
19 of the Class are similarly affected by the GATHERAPP's actionable conduct.  
20 GATHERAPP's conduct that gave rise to the claims of Plaintiff and members of the  
21 Class A (*i.e.*, using an autodialer to send unsolicited text messages to mobile phones  
22 owned by Plaintiff is the same for all members of Class A).

23 38. Plaintiff will fairly and adequately protect the interests of the Classes  
24 because they have no interests antagonistic to, or in conflict with, the Classes that  
25 Plaintiff seek to represent. Furthermore, Plaintiff have retained counsel experienced  
26 and competent in the prosecution of complex class action litigation.



1        39. Class action treatment is a superior method for the fair and efficient  
2 adjudication of this controversy, in that, among other things, such treatment will  
3 permit many similarly situated persons or entities to prosecute their common claims  
4 in a single forum simultaneously, efficiently, and without the unnecessary duplication  
5 of evidence, effort, expense, or the possibility of inconsistent or contradictory  
6 judgments that numerous individual actions would engender. The benefits of the  
7 class mechanism, including providing injured persons or entities with a method for  
8 obtaining redress on claims that might not be practicable to pursue individually,  
9 substantially outweigh any difficulties that may arise in the management of this class  
10 action.

11        40. Plaintiff knows of no difficulty to be encountered in the maintenance of  
12 this action that would preclude its maintenance as a class action.

13        41. GATHERAPP has acted or refused to act on grounds generally  
14 applicable to the Class, thereby making appropriate final injunctive relief or  
15 corresponding declaratory relief with respect to the Class.

16                                    **COUNT I**

17                                    **Violation of the Telephone Consumer Protection Act**

18                                    **(47 U.S.C. § 227 et seq.)**

19  
20        42. Plaintiff incorporates by reference all above paragraphs as though fully  
21 repeated herein.

22        43. The TCPA prohibits the use of an ATDS or autodialer to make any call  
23 or send any text message to a wireless phone number without the prior express  
24 consent of the contacted party or in the absence of an emergency.  
25  
26  
27



5. Attorney's fees;
6. Litigation expenses and costs of the instant suit; and
7. Such other or further relief as the Court deems proper.

**JURY TRIAL DEMAND**

A jury trial in this matter is hereby demanded.

SPRETER & PETIPRIN, APC

Dated: June 21, 2017



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